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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,436	11/09/2001	Blair B.A. Birmingham	ATI.0100690	8984

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EXAMINER

BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.		Applicant(s)	
	10/039,436		BIRMINGHAM, BLAIR B.A.	
	Examiner		Art Unit	
	Scott Beliveau		2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13,15-25,27-39,41-54 and 56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13,15-25,27-39,41-54 and 56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 January 2007 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 16, 28, and 42 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 42-54 and 56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 42 sets forth a "computer readable medium . . . including instructions to manipulate a processor".

In accordance with the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (1300 Official Gazette Pat. Office 142 (Nov. 22, 2005)), Data structures not claimed as embodied in computer-readable media are descriptive material

per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.

Furthermore, the instant application discloses that a 'computer readable medium' may be a signal (IA: Page 18, Line 25 – Page 19, Line 6). A claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
6. Claims 1-13, 15-25, 27-39, 41, 41-54 and 56 are rejected under 35 U.S.C. 102(e) as being anticipated by Begeja et al. (US Pub No. 2003/0163815 A1).

Claim 1 is rejected wherein the Begeja et al. reference discloses a "method" as claimed.

In particular, the 'method' involves "accessing stored video content stored at a server" [205] (Para. [0046]), "identifying a first portion of the stored video content based on the closed

captioning content” (Para. [0049]) and “providing content associated with the first portion of the stored video content to a remote device” (Para. [0048] and [0062] – [0068]).

Claim 16 is rejected wherein the Begeja et al. reference discloses a “method” as claimed. In particular, the ‘method’ involves “locating a keyword within a set of text representative of stored video content, the stored video content stored at a server” [205] (Para. [0046]), “selecting a first portion of the stored video content based on the location of the keyword with the set of text” (Para. [0049]) and “providing content associated with the first portion of the stored video content to a remote device” (Para. [0048] and [0062] – [0068]).

Claim 28 is rejected wherein Figure 2 illustrates a “system” as claimed. The system comprises a “closed captioning decoder to decode a closed captioning content of stored video content to generate a set of text representative of closed captioning content” [205], a “content server to select a first portion of the stored video content based on an analysis of said text” [225] and a “transmitter to transmit content associated with said first portion of the stored video content to a remote device” [220] (Para. [0048] and [0062] – [0068]).

Claim 42 is rejected as described in the rejection of claim 1 which is performed using a “computer readable medium . . . including instructions to manipulate a processor” in association with the implementation of the software architecture illustrated in Figure 2.

Claims 2, 29, and 43 is rejected wherein the “identifying a first portion includes: searching the closed captioning content for a keyword; and selecting the first portion of the stored video content based on a location of the keyword within the closed captioning text” such that the “analysis of said set of text includes locating a keyword within said set of text” (Para. [0049]).

Claims 3, 30, and 44 are rejected wherein the “keyword is indicated by a user” (Figure 4; Para. [0064]).

Claims 4, 18, 31, and 45 are rejected wherein the “keyword includes one of: a single word, a plurality of words, and a phrase” (Figure 4; Para. [0064]).

Claims 5, 32, and 46 are rejected wherein the “identifying a first portion includes: obtaining a set of parameters; and selecting the first portion of the stored video content based on the set of parameters” such that the “analysis of said set of text includes selecting said first portion of the stored video content based on a set of parameters” (Para. [0049] and [0062] – [0064]).

Claims 6 and 47 are rejected wherein the “set of parameters includes at least one keyword” [410] (Figure 4; Para. [0062] and [0064]).

Claims 7, 33, and 48 are rejected wherein the “set of parameters include parameters specifying a specific time period on a specific channel” (Para. [0062], [0063], [0073], and [0084]).

Claims 8, 34, and 49 are rejected wherein the “set of parameters is specified by a user” (Para. [0063] and [0064]).

Claims 9, 35, and 50 are rejected wherein the “set of parameters is specified by the user through a website” (Para. [0072]).

Claims 10, 22, 36, and 51 are rejected wherein the “content associated with the first portion includes a text transcript based on the closed captioning content” (Figure 5; Para. [0090]).

Claims 11, 23, 37, and 52 are rejected wherein the “content associated with the first portion includes a still image representative of the first portion of the stored video content” (Figure 5; Para. [0090]).

Claims 12, 24, 38, and 53 are rejected wherein the “content associated with the first portion includes an audio clip representative of the first portion of the stored video content” (Figure 5; Para. [0090]).

Claims 13, 25, 39, and 54 are rejected wherein the “content associated with the first portion includes an video clip representative of the first portion of the stored video content” (Figure 5; Para. [0090]).

Claims 15, 27, 41 and 56 are rejected wherein the “remote device includes one of: an alphanumeric pager, a two-way pager, a wireless telephone, and a hand-held computing device” (Para. [0057]).

Claim 17 is rejected wherein the “set of text is representative of a closed captioning content of the stored video content” (Para. [0043]).

Claim 19 is rejected wherein the method further comprises “obtaining the keyword” (Figure 4; Para. [0062] and [0064]).

Claim 20 is rejected wherein the “keyword is specified by a user” (Figure 4; Para. [0063] and [0064]).

Claim 21 is rejected wherein the “user specifies the keyword using a website” (Para. [0072]).

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Wilf (US Pub No. 2001/0044926 A1) reference discloses a system and method for searching and alerting users when locating information of interest.
- The Menard et al. (US Pat No. 6,810,526) reference discloses a system and method wherein a centralized monitoring services alerts users when information of interest is located.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or

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access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or
571-272-1000.

A handwritten signature in black ink, appearing to read "S. Beliveau".

SEB

January 25, 2007

Scott Beliveau
Primary Examiner
Art Unit 2623